

## **REMARKS**

### **Claim Rejections**

35 USC 103. In the Office Action of October 7, 2005, Examiner Campbell has rejected claims 1-4, 11-14 and 21-22 under 35 U.S.C. 103(a) based on the German patent of Eberlein.

Applicant does not agree with the Examiner's rejection. However, claims 1-4, 11-14 and 21-22 have been canceled without prejudice for possible prosecution of said claims at a later date.

The Examiner has further rejected claims 5-7, 15-17 and 23 (Office Action of 10/07/05) under 35 U.S.C. 103(a) based on the patent of Eberlein as modified by McCance.

Applicant does not agree with this rejection as set forth by the Examiner. Claims 5-7, 15-17 and 23 have been canceled without prejudice for possible prosecution at a later date.

Claims 8-10, 18-20 and 24-27 are rejected by the Examiner in the Office Action of October 7, 2005 under 35 U.S.C. 103(a) based on Eberlein as modified by McCance and Vaughn et al.

Applicant does not agree with this rejection as set forth by the Examiner. However, claims 8-10, 18-20 and 24-27 have been canceled without prejudice for possible prosecution of the claims at a later date.

The Examiner further set forth a rejection of claims 28-30 in the Office Action of October 7, 2005. However, on page 9, of said Office Action the Examiner stated that claims 28-30 are allowed. Additionally, the Examiner indicated in the attached Office Action Summary (PTOL-326) that claims 28-30 are allowed. Several attempts by Applicant to reach the Examiner by phone for clarification of this inconsistency were unsuccessful.

Applicant's argument presented in his prior Response of July 18, 2005 asserted that the McKelvey reference used to reject claims 28-30 did not constitute prior art under 35 U.S.C. 102

and 103. Since McKelvey's patent does not constitute prior art, it follows that the rejection of claims 28-30 based on his teaching was improper and should have been withdrawn. However, in the Office Action of 10/07/05, the Examiner failed to address these arguments and maintained the rejection of claims 28-30, while also indicating that claims 28-30 were allowable. This is contradictory, but it appears that the rejection of claims 28-30 was made in error and that the claims are, in fact, allowable as indicated in the Office Action (10/07/05). Applicant presumes that this rejection was merely an oversight and that claims 28-30 are allowable.

In the event that the Examiner disagrees with Applicant's presumption that claims 28-30 are allowable and *not* rejected under 35 U.S.C. 103(a), it is requested that the Examiner withdraw the Final Rejection and issue another Office Action which clearly indicates the status of claims 28-30. Otherwise, Applicant requests that claims 28-30 be passed to issue.

Claims 1-27 have been canceled herein without undue prejudice for continued prosecution at a later date. Original claims 28-30 are pending in the application and are allowable as set forth by the Examiner. No new matter has been entered into the application by this amendment.

Conclusion

The above amendments being fully responsive to all outstanding rejections and formal requirements, it is submitted that this application is in condition for allowance, and a notice to that effect is earnestly solicited. In the event that a telephone conference will expedite the allowance of this application, the Examiner is urged to contact the undersigned at the phone number listed below.

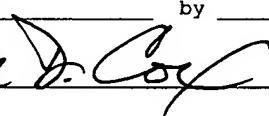
Respectfully submitted,



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I, Boyd D. Cox, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450,

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